(13)

HB III

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

GORDON ROY PARKER, a.k.a. **Ray Gordon,** d/b/a **Snodgrass Publishing Group**, Plaintiff, v. **Learn The Skills Corp.**, et al. Defendants.	:	**CASE NO.: 05-cv-2752** **Hon. Harvey J. Bartle, III**

ORDER

AND NOW, this ____ day of _______________, 2005, in consideration of **Plaintiff's Motion For Default Judgment**, and all responses thereto, the motion is **granted**.

The Clerk is instructed to prepare a civil judgment on a separate document pursuant to Federal Rule 79(b).

SO ORDERED.

____
J.

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

GORDON ROY PARKER, a.k.a. **Ray Gordon,** d/b/a **Snodgrass Publishing Group,** Plaintiff, v. **Learn The Skills Corp.**, et al. Defendants.	:	**CASE NO.: 05-cv-2752** **Hon. Harvey J. Bartle, III**

FILED
OCT - 7 2005
MICHAEL E. KUNZ, Clerk
By C.D. Dep. Clerk

PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANTS LTSC/FORMHANDLE

Gordon Roy Parker, **Plaintiff** in the above-styled action, hereby submits this motion for default judgment against Defendants LTSC and Formhandle, and in support thereof, submits the following:

1. Defendants LTSC and Formhandle were served with a copy of the Summons and Complaint in this action by **overnight mail** on September 1, 2005.

2. The overnight mail for each Defendant was signed for and received by M. Fung on September 2, 2005. An Affidavit of Supplemental Service has been concurrently filed and is attached hereto as Exhibit A and incorporated by reference as if fully set forth verbatim herein.

3. Federal Rule 4(e)(1) permits service of a summons and complaint "pursuant to the law of the state in which the district court is located."

4. Pennsylvania Rule 403 allows for service by any form of mail requiring a signature, when service by mail is permitted.

5. Pennsylvania Rule 404 permits service by signature mail for Defendants located outside of the Commonwealth.

6. Federal Rule 12(a)(1)(A) requires that an answer be served within 20 days, or alternatively, a motion to dismiss pursuant to Rule 12(b)(6), or for a more definitive answer pursuant to Rule 15.

7. No such pleading has been filed within the time limits.

RELIEF SOUGHT

WHEREAS, no timely answer or motion to dismiss has been filed in response to a properly served Summons and Complaint, Plaintiff is entitled to default judgment. An appropriate form of order is attached.

This the 7th day of October, 2005.

Gordon Roy Parker

Gordon Roy Parker
Plaintiff, Pro Se
4247 Locust Street, #806
Philadelphia, PA 19104
(215) 386-7366
GordonRoyParker@aol.com

"If a rule of civil procedure authorizes original process to be served by mail, a copy of the process shall be mailed to the defendant by any form of mail requiring a receipt signed by the defendant or his authorized agent. Service is complete upon delivery of the mail."

1. If the mail is returned with notation by the postal authorities that the defendant refused to accept the mail, the plaintiff shall have the right of service by mailing a copy to the defendant at the same address by ordinary mail with the return address of the sender appearing thereon. Service by ordinary mail is complete if the mail is not returned to the sender within fifteen days after mailing.

2. ***If the mail is returned with notation by the postal authorities that it was unclaimed,*** the plaintiff shall make service by another means pursuant to these rules. (Emphasis Added).

2. **Pennsylvania Rule 404**. Pennsylvania Rule 404 states that service of a Defendant outside the Commonwealth may be effected "by mail in the manner provided by Rule 403."

III. ARGUMENT

This motion will hinge on the interpretation of FRCP 4(e)(1).

A. FRCP 4(e)(1) Allows For Service Pursuant To Pennsylvania Law.

The language of FRCP 4(e)(1) indicates that service may be made "pursuant to the law of the state in which the district court is located." The only question here is whether or not "the district court" referenced in the rule is "located" in Pennsylvania or Massachusetts. Precedent is sparse (Plaintiff could not locate any), but the wording of FRCP(4)(e)(1) would be superfluous unless it was referring to Pennsylvania, since the rule also allows for service pursuant to the state law of where the district court is located ***or in which service is effected***. The wording would be redundant, as the district court would always be "located" where service is effected under that definition. The rule therefore must refer to Pennsylvania.

Even if the rule does not refer to Pennsylvania, however, because Defendants LTSC and Formhandle do business in Pennsylvania, and receive money from its residents, they should be treated as Pennsylvania Defendants who are located outside of the Commonwealth and therefore subject to state law for service of process under Pennsylvania Rules 403-404.

B. Both Defendants Were Properly Served And Are Now In Default

To the extent that this Court recognizes service as proper, both Defendants LTSC and Formhandle are in default.

IV. CONCLUSION

For the reasons set forth hereinabove, default judgment should be entered against Defendants LTSC and Formhandle, and in favor of Plaintiff.

This the 7th day of October, 2005.

Gordon Roy Parker
Plaintiff, Pro Se
4247 Locust Street, #806
Philadelphia, PA 19104
(215) 386-7366
GordonRoyParker@aol.com

Exhibit A

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

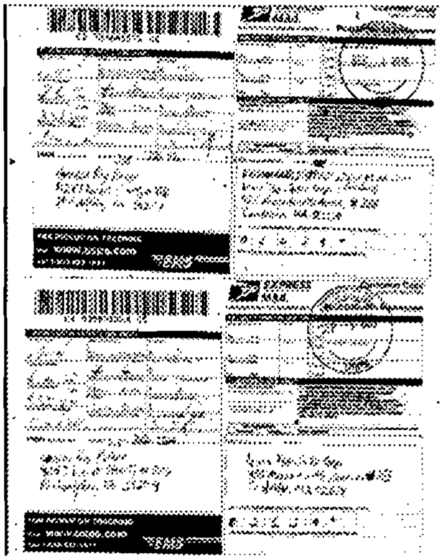
GORDON ROY PARKER, a.k.a. **Ray Gordon,** d/b/a **Snodgrass Publishing Group**, Plaintiff, v. **Learn The Skills Corp.**, et al. Defendants.	: : : : : : : : : : :	**CASE NO.: 05-cv-2752** **Hon. Harvey J. Bartle, III**

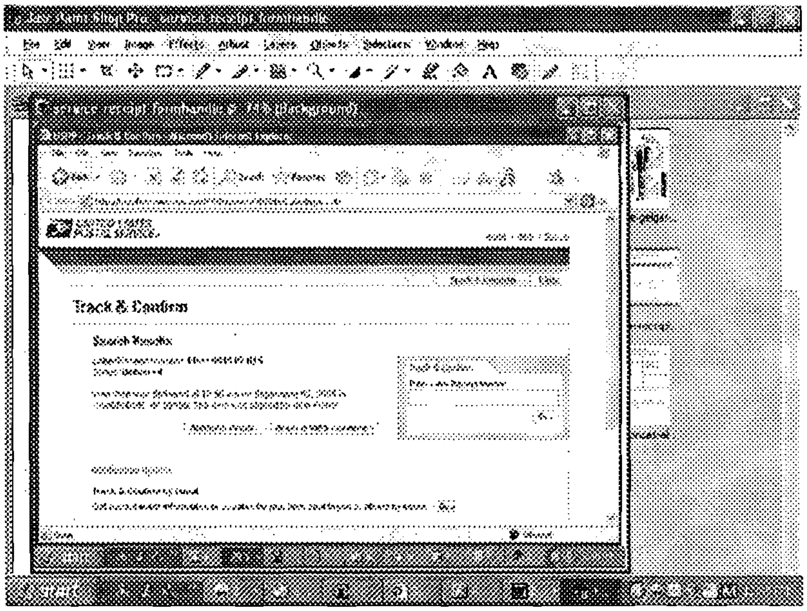
AFFIDAVIT OF SERVICE ON LTSC AND FORMHANDLE

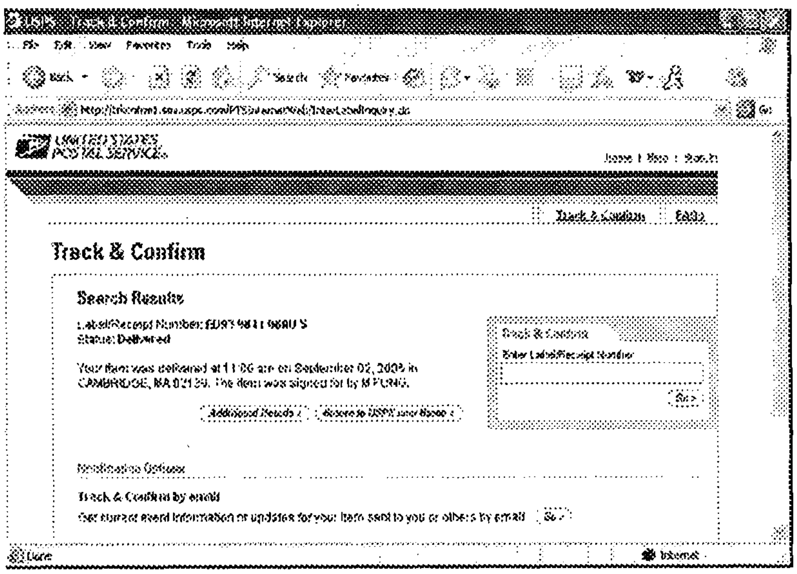
I, Gordon Roy Parker, **Plaintiff** in the above-styled action, hereby attest and swear, under penalty of perjury (28 USC §1746 and any other applicable statutes), that I have served and/or attempted service on Defendants **Learn The Skills Corp.** and **Formhandle@fastseduction.com**, as follows:

1. Personal service on both Defendants was effected on September 29, 2005. Proof of that service has been filed with the court.

2. On September 1, 2005, Plaintiff served both Defendants by overnight mail, which was received and signed for on September 2, 2005 by M. Fung Proof of mailing and receipt appear below:


EXPRESS MAIL


Track & Confirm
Search Results


Track & Confirm
Search Results
Status: Delivered
Track & Confirm by email

This the 7th day of October, 2005.

Gordon Roy Parker
Plaintiff, Pro Se
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Philadelphia, PA 19104
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IN THE UNITED STATES DISTRICT COURT
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CERTIFICATE OF SERVICE

I, **Gordon Roy Parker**, Petitioner in the above-styled action, hereby certify that I have served a true and correct copy of the foregoing **Motion For Default Judgment** on the following Defendants in the manner designated below:

Trustees of the Univ. of PA
Dennis G. Young (Counsel)
Montgomery, McCracken,
Walker & Rhoads
123 South Broad Street, 28th Fl.
Philadelphia PA 19109
Hand Delivery

Paul Ross
310 Tahiti Way
Marina Del Ray, CA 90292-678
Regular Mail

Matthew S. Wolf, Esq.
1236-K Brace Road
Cherry Hill, NJ 08034
Regular Mail

Thom E. Geiger
817 North McCrary Road
Columbus, MS 39702-4320
Regular Mail

Formhandle@fastseduction.com
Learn The Skills Corp.
955 Massachusetts Ave, #350
Cambridge, MA 02139
Regular Mail

Learn The Skills Corp.
955 Massachusetts Ave, #350
Cambridge, MA 02139
Regular Mail

This the 7th day of October, 2005.

[signature]

Gordon Roy Parker
Plaintiff, Pro Se
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Philadelphia, PA 19104
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